

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES,

Plaintiff,

v.

Case No. 18-CR-130

PETER ARMBRUSTER
MARK WOGSLAND,
and BRET NAGGS,

Defendants.

**DEFENDANT NAGGS' MOTION TO RECONSIDER PROPOSED JURY
INSTRUCTIONS**

Defendant Bret Naggs respectfully moves the Court to reconsider its denial of his request for Instruction 5.07 of the Seventh Circuit Pattern Jury Instructions—specifically parts (b) and (c) of that instruction. At the July 22, 2021 instruction conference, the Court denied the instruction as cumulative of the definition of “Scheme to Defraud” provided in relation to Counts 11-13 (Securities Fraud) as well as Counts 14-17 (Wire Fraud).

Defendant Naggs submits this renewed request for Instruction 5.07 (b) and (c) because a “scheme to defraud” is not a part of the other, non-conspiracy counts. Counts Two-Five (misleading Roadrunner accountants) as well as Counts Six through Nine (falsifying Roadrunner’s books, records, or accounts) require the defendants act “knowingly and willfully.” These counts do not reference a “scheme

to defraud.” Instruction 5.07 (b) and (c) are appropriate in this case because they relate to the “willfully” element contained in Courts Two through Five and Six through Nine; they track evidence that has been presented in this case; and the “scheme to defraud” definition does not apply to these counts. For these reasons, Naggs requests the court reconsider its decision not to give Instruction 5.07(b) and (c).

Dated this 22th day of July, 2021.

BISKUPIC & JACOBS, S.C.

By: /s/ Justin J. Dreikosen
Steven Biskupic, SBN 1018217
Matthew L Jacobs, SBN 1017227
Justin J. Dreikosen SBN 1094426
Biskupic & Jacobs, S.C.
1045 West Glen Oaks Lane, Suite 106
Mequon, WI 53092
Office: 262-241-0033